D.B. CIVIL WRIT PETITION NO.3749/2004
(Duldas & Anr. Vs. State & Anr.)

Date of order : 20.12.2006

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. B.M. Aggarwal, for the petitioners.
Mr. N.M. Lodha, Addl. Advocate General.

Having heard learned for the parties and perused the additional affidavit, in our opinion no further directions are required in the matter.

The petition was filed as a Public Interest Litigation for the following relief :

> "A writ, order of direction in the appropriate nature may kindly be issued in favour of the petitioners and against the respondents restraining them from construction of the road in the Johar Paitan land as it described in Annexure-1 and ordering the respondents to restore the Johar Paitan to its original position."

The said Johar Paitan is situated in Village Shivpur Chak 4 E Badi ad-measuring 10.800 hectares of land in Murabba No.48 and 49. The petition was filed apprehending that a 'pacca' road is being constructed through the said Johar Paitan and therefore, the aforesaid relief was claimed.

By way of ad-interim relief by order dated 5.5.2005, the respondents were restrained from constructing 'pacca' road at Johar Paitan as indicated in Annexure-1.

In reply to the writ petition in the first instance while admitting that the land in question was part of the said Johar Paitan, the respondents asserted that the construction of 'pacca' road is more beneficial to the people then keeping the said Johar Paitan as it is and justification was sought to be made for construction of road. When it was pointed out to learned Addl. Advocate General that the construction in the catchment area is not permissible as directed by Supreme Court as well as by this Court, the respondents has filed additional affidavit, which reads as under :

> "That there was a proposal for constructions of road from Bifurcation Head to Hindumal Kot. In this area, some part of Johar Payatan at village Fathui also comes but in the Johar Payatan area road could not have been constructed and has not been constructed, now it has been decided to not to construct the road in the said catchments are (Johar Payatan). It would be just and proper that facts stated herein above may be taken on record."

In view of aforesaid stand, it is apparent that the State Government has also realized that no 'pacca' construction may be raised in the Johan Paitan

area and they have abandoned the idea of construction of 'pacca' road through the Johar Paitan in respect of which this petition was filed.

In view of the above categorical stand taken by the respondents, which is in tune with the relief claimed by the petitioners, no further directions are required to be issued. If any deviation is made from the aforesaid stand taken by the respondents, the petitioner shall be free to approach the Court again to have recourse to any other remedy, as may be advised.

The petition, accordingly, stands disposed of in the light of the additional affidavit submitted by the respondents.

No costs.

(GOPAL KRISHAN VYAS), J. (RAJESH BALIA), J.

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